

SLD Appeal re: Whiteside School District 115

BEN 136427 - FY2015

ACCEPTED/FILED

September 9, 2015

OCT 13 2016

Letter of Appeal - Case # *(filed electronically)*

Federal Communications Commission
Office of the Secretary

Schools and Libraries Division, Box 125 – Correspondence Unit
80 South Jefferson Road, Whippany, NJ 07981

CC: 02-6

Contact Information:

Contact Person Name:	Justin Ballou
Contact Person Phone:	618-239-0000 X 3363
Contact Person Fax:	618-239-9240
Contact Person E-Mail:	justin.ballou@wssd115.org

Other Required Information:

Funding Year:	2015-2016
Applicant Name:	Whiteside School District 115
Billed Entity # :	136427
Form 471 Application#:	1027621

DOCKET FILE COPY ORIGINAL

FRN #:	2790925
Service Provider Name:	Business Systems Connection Inc.
Service Provider SPIN:	143037173

SLD action being appealed:

We are appealing the fact that we omitted four elements from page 2 of a contract for FRN 2790925 per the Funding Commitment Decision Letter for Form 471 1027621 dated 09/04/2015.

Basis for this appeal:

We made a clerical error of not turning to the second page of the contract to enter in the four other elements involved with this equipment request. It includes three switches and cabling to support the Wireless access points that are listed on the first page of the contract. (See the attached contract.)

This comes to a total of \$3,945.00 (\$259.00 + 419.00 + 1720.00 + 1547.00) which is significant to our school district. Had we presented the elements on page 2 - we believe that the SLD would have approved our request.

Summary and Requested Action:

We request that SLD examine the attached contract and increase FRN 2790925 from Business Systems Connection Inc.

SLD Appeal re: Whiteside School District 115

BEN 136427 - FY2015

Thank you

Sincerely,

(filed electronically via SLD website)

Justin Ballou

Director of Technology

Whiteside Public Schools 115

Included with this appeal:

Att 1 – Signed LOA

Att 2 - Business Systems Connection Inc.

Justin Ballou
Whiteside School District 115
111 Warrior Way
Belleville, IL 62221-2523

Billed Entity Number: 136427
Form 471 Application Number: 1027621
Form 486 Application Number:



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2015-2016

November 10, 2015

Carol Underriner
BTU Consultants, LLC
4 Media Court
St. Louis, MO 63146

Re: Applicant Name: WHITESIDE SCHOOL DISTRICT 115
Billed Entity Number: 136427
Form 471 Application Number: 1027621
Funding Request Number(s): 2790925
Your Correspondence Dated: September 09, 2015

After review of the information and documentation provided, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's funding commitment decision for the FCC Form 471 Application Number and funding requests number(s) FRN(s) referenced above. This letter provides an explanation for USAC's decision. The date of this letter also begins the sixty (60) day time period for appealing this decision. If your Letter of Appeal included more than one FCC Form 471 Application Number, please note that you will receive a separate decision for each funding application.

Funding Request Number(s): 2790925
Decision on Appeal: Denied
Explanation:

- During appeal review of your FCC Form 471 application number 1027621 you requested to increase the amount of funds approved under FRN 2790925. Program procedures allow applicants to amend their applications and correct ministerial and clerical errors on their FCC Forms (including adding a funding request) until a Funding Commitment Decision Letter (FCDL) is issued. Increases in funding requests cannot be submitted through the appeals process and after the issuance of the FCDL. Consequently, USAC denies your appeal.
- Your appeal requests additional funds that were not included in the FCC Form 471 that you are appealing. FCC rules require that funding requests must be submitted via an FCC Form 471. See 47 C.F.R. sec. 54.504(a). Considerations for funding requests depend on the date the FCC Form 471 is received and the

amount of funds available if it is received after the close of the filing window. *See* 47 C.F.R. sec. 54.507(f). The FCC directed USAC to allow applicants to amend their forms to correct clerical and ministerial errors on their FCC Forms 470, FCC Form 471 applications, or associated documentation until an FCDL is issued. Such errors include only the kinds of errors that a typist might make when entering data from one list to another, such as mistyping a number, using the wrong name or phone number, failing to enter an item from the source list onto the application, or making an arithmetic error. *See* Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, FCC 11-60 para. 5 (rel. April 14, 2011). Additional correctable errors can be found in the FCC Order DA 10-2354. *See* Requests for Waiver and Review of Decisions of the Universal Service Administrator by Ann Arbor Public Schools, Ann Arbor, Michigan, et al., Schools and Libraries Universal Service Support Mechanism, File Nos. SLD-542873, et al., CC Docket No. 02-6, Order, DA 10-2354 para. 2 (rel. December 16, 2010).

- The FCC's Bishop Perry Order directed USAC "to provide all E-rate applicants with an opportunity to correct ministerial and clerical errors on their FCC Form 470 or FCC Form 471, and an additional opportunity to file the required certifications" without posting new FCC Forms 470 and 471. *See* Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, New Orleans, Louisiana, et al., Schools and Libraries Universal Service Mechanism, File Nos. SLD-487170, et al., CC Docket No. 02-6, Order, 21 FCC Rcd 5316-5317, FCC 06-54 para. 23 (May 19, 2006) (Bishop Perry Order). As a result, USAC sends an applicant a Receipt Acknowledgement Letter (RAL) when the FCC Form 471 has been successfully data entered and provides the applicant with an opportunity to make allowable corrections to its FCC Form 471. *See* Ministerial & Clerical Errors posted in the Reference Area of the SLD section of the USAC website. Per the FCC's directive, applicants should be allowed to amend their forms to correct clerical and ministerial errors until a Funding Commitment Decision Letter (FCDL) is issued. Such errors include only the kinds of errors that a typist might make when entering data from one list to another, such as mistyping a number, using the wrong name or phone number, failing to enter an item from the source list onto the application, or making an arithmetic error. *See* Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, FCC 11-60 para. 5 (rel. April 14, 2011). Additional correctable errors can be found in the FCC Order DA 10-2354. *See* Requests for Waiver and Review of Decisions of the Universal Service Administrator by Ann Arbor Public Schools, Ann Arbor, Michigan, et al., Schools and Libraries Universal Service Support Mechanism, File Nos. SLD-542873, et al., CC Docket No. 02-6, Order, DA 10-2354 para. 2 (rel. December 16, 2010). An applicant's request to remove entities from its application, when such removal would raise the average discount percentage for the relevant funding request above the funding threshold for that year, is not justifiable as a ministerial or clerical error. *See* Request for Waiver and Review of Decisions of the Universal Service Administrator by Alexander County School District, Taylorsville, North Carolina, et al., Schools and Libraries Universal Service Support Mechanism, File No. SLD-827833 et al., CC Docket No. 02-6, Order, DA 13-1383 para. 2 (rel. June 14, 2013).

If you wish to appeal this decision, you may file an appeal pursuant to 47 C.F.R. Part 54, Subpart I. Detailed instructions for filing appeals are available at:
<http://www.usac.org/sl/about/program-integrity/appeals.aspx>.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

January 7, 2016

Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-A325
Washington DC 20554

Appeal – CC Docket 96-45 and 02-6

USAC Appeal Decision Date: November 10, 2015
Form 471 Number: 1027621
FRN Number: 2790925
Funding Year: 2015
Billed Entity Name: Whiteside School District 115
BEN: 136427
SPIN: 143037173
Service Provider: Business Systems Connection

Contact Information:

Name: Justin Ballou
Director of Technology
Address: 111 Warrior Way
Belleville, IL 62221
Phone: 618-239-0000 X 3363
Fax: 618-239-9240
Email: justin.ballou@wssd115.org

Reason for Waiver Request / SLD action being appealed:

We are appealing the status of "Denied" for the one FRN above on Form 471 1027621.

Funding Commitment Decision Letter: The Funding Commitment Decision Letter is dated 09/04/2015 for fewer dollars than we had anticipated.

Requested Action: We request that the FCC consider our request for a waiver. Please grant approval for an additional \$3,945.00 for the above FRN after reviewing the following statements.

Our basis for this appeal: We had written an appeal to USAC on September 9, 2015. USAC denied it on November 10, 2015. (See Attachment 1.)

We are presenting no new evidence here. We are simply escalating our original request to the FCC Waiver level. USAC's denial cites the rule that states that increases in funding requests cannot be submitted through the appeals process and after the

issuance of the FCDL. The appeal requests additional funds that were not included in the FCC Form 471. That is true and that is the problem.

Here is what we wrote in the USAC appeal:

Basis for this appeal:

We made a clerical error of not turning to the second page of the contract to enter in the four other elements involved with this equipment request. It includes three switches and cabling to support the Wireless access points that are listed on the first page of the contract. (See the attached contract.)

This comes to a total of \$3,945.00 (\$259.00 + 419.00 + 1720.00 + 1547.00) which is significant to our school district. Had we presented the elements on page 2 - we believe that the SLD would have approved our request.

The district believes that we made a Clerical and Ministerial error by not turning the page of the vendor's document when we were inputting the equipment details into the Form 471. We did not notice this error until we received the FCDL and checked the FCDL against the vendor documentation. Then the error was obvious.

We cite the FCC's Alaska Gateways decision that says:

*"The Commission may waive any provision of its rules on its own motion and for good cause shown.¹⁸ A rule **may be waived where the particular facts make strict compliance inconsistent with the public interest.**¹⁹*

*In addition, the Commission may take into account considerations of **hardship, equity, or more effective** implementation of overall policy on an individual basis.²⁰ In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule; and such deviation would better serve the public interest than strict adherence to the general rule.²¹"*

We also cite the FCC's Tucson decision that says:

"In 2006 and 2007, in the Bishop Perry Order and the Academy for Academic Excellence Order, the Commission and the Bureau, respectively, granted waivers to applicants who missed the FCC Form 471 filing window deadline due to technical malfunctions, school reorganizations, a misunderstanding related to the filing deadline, personal staff emergencies, inadvertent errors, or circumstances beyond their control, including inclement weather.¹⁵ Consistent with the precedent established in those orders, in 2008 the Bureau released the Acorn Public Library District Order, in which it granted waivers of the FCC Form 471 filing window deadline to applicants that: (1) filed their FCC Form 471 applications within 14 days after the FCC Form 471 filing window deadline;¹⁶ (2) filed their FCC Form 471 applications late because of an illness of the E-rate staff person or the death of a member of his or her family;¹⁷ (3) filed their FCC Form 471 applications late due to delays caused by circumstances beyond their control;¹⁸ or (4) filed their FCC Form 471 applications on time or within 14 days of the filing window

deadline but failed to file their FCC Forms 470 or 471 certifications on time.19”

These two orders are examples of the FCC's willingness to avoid hardship when there was no waste, fraud or abuse.

Summary:

We request that the FCC give us another chance to properly participate in the E-rate program.

This comes to a total of \$3,945.00 (\$259.00 + 419.00 + 1720.00 + 1547.00) which is significant to our school district. Had we presented the elements on page 2 - we believe that the SLD would have approved our request. We assure the FCC that we have been and remain strident in our efforts to understand and comply with all SLD guidelines. This denial is the result of an error on our part, however it was an administrative, clerical oversight and we request the FCC's understanding of such.

We would appreciate having this decision re-evaluated and funded.

Thank you.

Sincerely,

(filed electronically via FCC website)

Justin Ballou

Director of Technology

Whiteside School District 115

Attachments below:

1. SLD appeal filed September 9, 2015
2. USAC denial response to the SLD appeal dated November 10, 2015